

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

MARCUS MARTIN BOWMAN,

18-CR-120-V
ORDER

Defendant.

The defendant, Marcus Martin Bowman (“Bowman”), is charged in two counts of a superseding indictment. Docket Item 85. Count 1 charges Bowman and fifteen other named defendants with conspiring to possess with intent to distribute and conspiring to distribute at least 50 grams of methamphetamine, in violation of 21 U.S.C. § 846. *Id.* Count 38 charges Bowman with attempting to possess at least 50 grams of methamphetamine with intent to distribute it, in violation of 21 U.S.C. § 846. *Id.*

Bowman filed an omnibus discovery motion and motions to suppress evidence and statements. Docket Items 253 and 296. The government responded to the omnibus discovery motion and opposed the motions to suppress. Docket Items 276 and 307. After hearing oral argument on September 16, 2019, and at Bowman’s request, the Court held the motions in abeyance pending the outcome of plea negotiations. See Docket Item 486. By Decision and Order filed April 9, 2020, Magistrate Judge Michael J. Roemer addressed Bowman’s non-dispositive discovery motions. Docket Item 440. At a May 12, 2020 status conference, the parties reported that plea negotiations were unsuccessful and Bowman intended to proceed to trial;

Judge Roemer requested additional information from the government and deemed Bowman's motions to suppress submitted for decision. See Docket Item 486.

On May 27, 2020, Judge Roemer issued a Report & Recommendation ("R&R) recommending the denial of Bowman's motions to suppress evidence and statements. Docket Item 486. With respect to Bowman's motion to suppress evidence, Judge Roemer found that as an overnight guest, Bowman had an expectation of privacy and therefore standing to challenge the search warrant issued for 18 Wisteria Drive, Fredonia, New York. *Id.* at 6. But Judge Roemer also found that Bowman had failed to make a preliminary showing that the search warrant affidavit contained a false statement, that a false statement was included recklessly or intentionally, and that any false statement was integral to finding probable cause. *Id.* at 7. Judge Roemer therefore recommended that the motion to suppress evidence be denied.

With respect to Bowman's motion to suppress his post-arrest statements, Judge Roemer found that Bowman had failed to allege any facts in support of his bald claim that his constitutional rights were violated when he was detained and questioned. *Id.* at 8. Specifically, Judge Roemer concluded that there was no factual dispute warranting a hearing. *Id.* Accordingly, Judge Roemer recommended the denial of Bowman's motion to suppress his statements.

Bowman did not object to the R&R, and the time to object now has expired. For that reason, he has waived his right to have the R&R reviewed. See Fed. R. Crim. P. 59(b)(2) ("Failure to object in accordance with this rule waives a party's right to review."); see also Docket Item 486.

Nevertheless, in its discretion, this Court has carefully reviewed the R&R as well as the parties' submissions to Judge Roemer in connection with the motions to suppress. Based on that review and the absence of any objection, and for the reasons stated in the R&R, this Court adopts the R&R in its entirety. Bowman's motions to suppress are DENIED.

SO ORDERED.

Dated: June 24, 2020
Buffalo, New York

s/ Lawrence J. Vilardo

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE